

REMARKS

Claims 52-93 and 95 are pending. Claim 94 has been canceled. Claim 95 has been added herein. Support for claim 95 is found at Fig. 22 of the drawings.

The following is Applicants' response to the Notice of Non-compliant Amendment of March 29, 2004. Applicants respectfully request the following remarks be included in the Examiner's analysis of the Amendment of January 5, 2004.

The Notice states that Applicants' reply filed January 5, 2004, is not fully responsive to the prior Office Action because Applicants must "present arguments pointing out the specific distinctions believed to render the claims, including any previously presented claims, patentable over any applied references."

In order to distinguish previously presented claims 52-94 from the original claims 1-51 and the cited prior art, Applicants will herein distinguish the previously presented independent claims. Applicants respectfully submit that all dependent claims should likewise be distinguished because of their dependency.

Accordingly, independent claims 52, 79, 82, 83, 85, 96, 90 and 95 are each addressed separately herein.

Claim 52

Claim 52 incorporates elements from the disclosures of original claim 1 (sheet beam-type testing apparatus); claim 2 (transport mechanism) and claim 3 (mini-environment chamber). These claims were originally rejected under 35 USC 102(e) as being anticipated by Yamazaki. However, previously presented claim 52 also includes a previously presented element, the sensor for observing cleanliness in the mini-environment chamber.

Support for this limitation is found in the original specification at page 68, lines 18-20 and in the substitute specification at page 58.

Claim 79

Claim 79 discloses a plural beam-type testing apparatus, and includes the limitations recited in claim 6 (partition wall ... having a plurality of holes). The previously presented claim 79 does not recite the "sheet-shaped beams" objected to by the Examiner in regard to claim 6. As claim 6 was not subject to prior art rejection, previously presented claim 79 is likewise distinguished.

Claim 82

Previously presented claim 82 is similar in scope to original claim 14, which recited the sheet beam testing apparatus, having an EXB separator or a Wien filter for separating a secondary charged particle beam. Original claim 14 was rejected under §102(e) as anticipated by Yamazaki et al. Yamazaki et al. discloses a Wien filter (EXB separator) in which the amount of deflection effected by the magnetic field is equal to an amount of deflection effected by the electric field, because the secondary electron does not deflect after their Wien filter pass through. However, claim 82 requires the amount of deflection effected by the magnetic field be equal to twice the amount of deflection effected by the electric field. Support for this limitation is found at page 13, lines 24-28 of the original specification and page 11, lines 27 to page 12, line 2 of the substitute specification. Wherefore, Yamazaki et al. does not anticipate previously presented claim 82.

Claim 83

Previously presented claim 83 is a method claim based on the disclosure in the original specification, at pages 125-135, and the substitute specification at pages 102-115. As none of the original claims were method claims and no rejections by the Examiner were based on methods disclosed in the prior art, Applicants respectfully submit that the claims are therefore distinguished.

Claim 85

Previously presented claim 85 recites all the limitations of original claim 18. Claim 18 was found by the Examiner to be allowable. Specifically, an objective lens with two electrodes and a control mechanism for changing the voltage on one electrode to largely change the focal distance of the lens and to the other electrode to change the focal distance finely. See page 15 of the September 5, 2003 Office Action.

Claim 86

Previously presented claim 86 is similar to original claim 22. Original claim 22 was rejected under 35 USC 103(a) as being obvious over Yamazaki et al. in view of Lo et al. The Office Action of September 5, 2003, maintained that Lo et al. disclosed an electrostatic chuck that electrostatically sucks and holds a test object and applies a voltage to the object which may increase or decrease from zero to a predetermined value. See the September 5, 2003 Office Action, bottom of page 5 to top of page 6.

However, previously presented claim 86 includes the additional limitation "a controller for controlling said voltage source to cause a voltage to be applied to said object to be gradually deepened to reach to a predetermined value during a predetermined period." Support for this limitation may be found at page 155, lines 7 to 9 of the original

specification and page 131, lines 23-25 of the substitute specification. Lo et al. does not disclose this limitation. If the voltage applied to the object under test is steeply deepened, the transistors or capacities in the object may be harmed.

Claim 90

Previously presented claim 90 incorporates the limitations of original claims 33 and 35. These claims were rejected under §103(a) as being obvious over Yamazaki et al. in view of Nagai et al. See the September 5, 2003 Office Action, bottom of page 14 to top of page 15: The Office Action maintained that Yamazaki discloses applying the object under testing with a retarding voltage and that use of varying retarding voltage is inherent as in resolving performance.

Additionally, the Office Action pointed to Nagai et al. for its teachings of the structure of electrostatic lenses which refers to the structural teaching of claim 33 (lens with an insulating material, etc.).

Applicants respectfully submit that neither reference discloses the limitation of claim 35, namely, a controller including a charge-up checking unit which outputs to a determination unit for obtaining an optimal retarding voltage from the retarding voltage applying unit.

This element has been incorporated into previously presented claim 90. Every limitation of a claim must be disclosed in the prior art references in order for a proper *prima facie* case of obviousness to be maintained. As this limitation is not taught by the cited prior art, Applicants respectfully submit there is no obviousness.

Claim 95

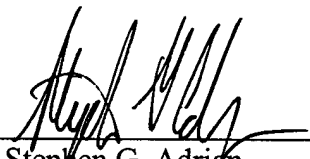
Claim 95 includes the limitation that a deflection angle for the primary beam or the secondary beam is about 3 times as large as the deflection angle for the secondary beam on the primary beam, respectively. Applicants respectfully submit that this limitation is not disclosed in any of the cited prior art.

Wherefore, Applicants respectfully submit substantive arguments have been submitted herein which address the distinctions between the cited prior art and the previously presented claims, and request favorable reconsideration in light thereof and the Amendment filed January 5, 2004.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

By: 

Stephen G. Adrian
Reg. No.: 32,878
Attorney for Applicant
Tel: (202) 822-1100
Fax: (202) 822-1111

MJC/SGA/jli